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January 8, 2023

Via ECF

Hon. Laura Taylor Swain, U.S. Chief D.J.
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

MEMORANDUM ENDORSED

**Re: Un-opposed Motion for Extension of Time to Move for Substitution of Oscar Garza
20-cv-08010 (LTS)(GWG) Perez, et al v. Escobar Construction, Inc. et al**

Your Honor,

I represent the Plaintiffs in the above-referenced matter. I write respectfully to request an extension of 60 days to move for the substitution of Plaintiff Oscar Garza due to the continued pendency in the Texas Surrogates Court of a petition for administration of his estate. This would extend Plaintiffs' time to move from January 8, 2023 to March 9, 2023. Defendants, through counsel Yuting Li, has indicated that they consent to an extension *sine die* with respect to our application. This is our first request for extension and will not affect the pending case, with the Answer to the Third Amended Complaint currently due on January 13, 2023.

A suggestion of Oscar Garza's death was filed on October 10, 2022. Accordingly, the time for any party to move for substitution of for Oscar Garza is January 8, 2023, 90 days later. *See* Fed. R. Civ. P. 25(a)(1).

Since October 2022, we have been in touch with the daughter and distribute, Erika Chavez. Since her father has passed away, the death certificate has been ordered from the funeral home and received on November 16, 2022. Since then, she has sought and obtained counsel in the state of Texas for the filing of probate in Texas. She is currently represented by Kelly Greenwood Prather, of The Greenwood Prather Law Firm, P.C., located at 2009 North Durnham Drive, Houston, Texas 77008, and a petition has been filed on December 27, 2022. I was informed that the amount of time for letters to be issued in the State of Texas is between 6-8 weeks. Accordingly, it is out of an abundance of caution that we request a 60-day extension of the deadline to move for substitution, to July 9, 2021. *See Hybrid Capital Group, LLC v. Padell*, 17-cv-06343 (KPF), Dkt. No. 68 (S.D.N.Y. Nov. 16, 2018) (granting 45-day extension when petition for appointment of executor was still pending when motion for substitution under Rule 25 was due).

It is our belief that ultimately, the Surrogate's Court will appoint Erika Chavez the administrator of Oscar Garza's estate. However, should it not appear likely that it will do so, we may move the Surrogate's Court on an emergency basis to appoint the public administrator a

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temporary administrator for the limited purpose of substituting for Oscar Garza. *See Hybrid Capital Group*, 17-cv-06343 (KPF), Dkt. Nos. 71, 71-1 (S.D.N.Y. Feb. 18, 2019).

I thank the Court for its attention to and consideration of this matter.

Respectfully submitted,
TROY LAW, PLLC

/s/ John Troy

John Troy

Attorney for Plaintiffs

cc: via ECF

all counsel of record

Extension to March 9, 2023, granted.

So Ordered.



GABRIEL W. CORENSTEIN

United States Magistrate Judge

January 9, 2023